

### REMARKS

Comments of the applicant are preceded by related comments of the examiner in small, bold-faced type:

**5. Claims 1-5, 10, 14-18, 23, 27-31, 36, 40, 43, and 50-55 are rejected under 35 U.S.C. 102(e) as being anticipated by US Publication No. 200210077988 to Sasaki et al.**

**Sasaki et al. disclose receiving digital content and metadata associated with the digital content (i.e. the metadata is implemented as a content header that includes information relating to an associated digital work), receiving publication information comprising distribution information that identifies one or more content distributors (i.e. the content header may include a distributor identifier) selected to distribute the digital content (see paragraphs [0038], lines 4- 16 and [0040], claim 1 and fig.4; each digital work transmission involves the packaging of the digital work and the associated content header into an encrypted transfer file that may be securely transmitted from one participating entity to another) and sending the metadata and publication information to a first computing system for storage (see paragraph [0016] a licensed digital content distributor that is configured to transmit to one or more portable media devices metadata associated with a broadcasted digital content and containing an embedded distributor identifier).**

**\*\*\***

**7. Claims 6, 9, 19, 22, 32 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al. as applied to claims 1, 50, 14, and 53 above.**

The independent claims have been amended to clarify that the digital content is stored separately from the metadata and the publication information. For example, amended claim 1 in relevant part recites:

storing the digital content at a first computing system; and sending the metadata and the publication information to a second computing system for storage *separately* from the first computing system.

Sasaki discloses techniques for enabling a content owner to track and control the distribution of digital content along a distribution path including one or more third parties (e.g., a commercial distributor and a license manager) to an end user of the digital content. Specifically, Sasaki discloses distributing digital content *with* metadata that is subsequently used by a playback device to determine whether an end user has the appropriate license to playback the associated digital content:

[U]sers may playback digital content using a playback software program executing on a computer system or an appropriately configured portable media device. In particular, the playback software and the portable media device are responsive to meta-data associated with each digital work. The associated meta-data includes information that indicates whether a user has purchased a digital work and, therefore is a licensed user 28, or whether the user has received the

digital work without purchase and, therefore, is an unlicensed user 26. (paragraph 0033)

At no point in the distribution path is the digital content stored separately from its associated metadata. Instead, the digital content is passed along the distribution path with its associated metadata in a manner similar to prior art systems discussed in the background section of the applicant's specification:

[M]any content publishers involve third parties in the protection and distribution of digital content. Content publishers often have to transfer the digital content to the third parties resulting in a loss of control over the digital content. (page 2, lines 12-16)

Sasaki clearly teaches away from "storing the digital content at a first computing system; and sending the metadata and the publication information to a second computing system for storage *separately* from the first computing system" as recited in claim 1. For at least these reasons, the applicant respectfully submits that claim 1 and its dependents are in condition for allowance.

The foregoing remarks also apply to independent claims 14, 27, 40, and 54, which have corresponding limitations, and the claims that depend, directly and indirectly, from claims 14, 27, 40, and 54.

The dependent claims are allowable for at least the reasons stated above with respect to the independent claims from which they depend.

8. Claims 7, 13, 20, 33, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al. as applied to claims 50, 1, 13, and 53 respectively above, and further in view of US Patent No. 6226618 to Downs et al.

9. Claims 8, 21, and 34 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Sasaki et al. as applied to claims 50, 14, and 53 respectively above, and further in view of European Patent No. 1041823 to Saito et al.

10. Claims 11, 12, 24, 25, 37 and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sasaki et al. as applied to claims 10, 1, 23, 24, 36 and 27 respectively above, and further in view of US Publication No. 2003/0023564 to Padhye et al.

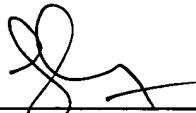
Downs, Saito, and Padhye do not add the missing features, being silent on "storing the digital content at a first computing system; and sending the metadata and the publication information to a second computing system for storage *separately* from the first computing system."

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

Please apply any charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: 8/22/05

  
\_\_\_\_\_  
Mandy Jubang  
Reg. No. 45,884

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906